

AMENDED IN SENATE MAY 23, 2012

AMENDED IN ASSEMBLY JANUARY 23, 2012

AMENDED IN ASSEMBLY JANUARY 9, 2012

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 317

Introduced by Assembly Member Charles Calderon

February 9, 2011

An act to amend Sections 798.21 and 798.74.5 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Charles Calderon. Mobilehomes.

Existing law, the Mobilehome Residency Law, governs tenancies in mobilehome parks, and imposes various duties on the owners of mobilehome parks and the agents and representatives authorized to act on behalf of the owners. Existing law exempts a rental agreement from any local ordinance, rule, regulation, or initiative that establishes a maximum amount that a landlord may charge a tenant for rent if a mobilehome space within a mobilehome park is not the principal residence, as defined, of the mobilehome owner. Existing law further makes those exemptions inapplicable under certain circumstances.

~~This bill would revise the conditions under which a tenancy is exempt from a local rent control ordinance, rule, regulation, or initiative, to, among other things, make the exemptions applicable when the~~

~~mobilehome space is not the sole residence of the mobilehome owner. The~~

~~This bill would specify the evidence factors upon which management of a mobilehome park may rely to determine whether a residence is the mobilehome owner's sole principal residence, including, among others factors, evidence that a mobilehome owner rents, leases, occupies, or has a present ownership interest in another place of residence. The bill would provide certain exceptions to these provisions, including circumstances where the mobilehome is occupied by a full-time resident who is 55 years of age or older, or who has a disability or handicap, as specified. The bill would require management to provide the homeowner with 90 days' written notice of any proposed rent modifications based on lack of sole residency at the mobilehome park, and specify related procedures, including voluntary arbitration if the mobilehome owner disputes management's determination, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.21 of the Civil Code is amended to
2 read:

3 798.21. (a) Notwithstanding Section 798.17, if a mobilehome
4 space within a mobilehome park is not the sole principal residence
5 of the mobilehome owner, it shall be exempt from any ordinance,
6 rule, regulation, or initiative measure adopted by any city, county,
7 or city and county, that establishes a maximum amount that the
8 landlord may charge a tenant for rent.

9 (b) Nothing in this section shall be construed to authorize
10 management to gain access to any records which would otherwise
11 be confidential or privileged.

12 ~~(c) The management of a mobilehome park shall not modify~~
13 ~~the rent or other terms of tenancy pursuant to this section without~~
14 ~~providing the mobilehome owner with written notice 90 days in~~
15 ~~advance of the effective date of the proposed modification. The~~
16 ~~notice shall include copies of or evidence in determination of the~~
17 ~~modification.~~

18 ~~(d) Evidence that a mobilehome is not the sole residence of the~~
19 ~~mobilehome owner shall be weighed in light of the totality of~~

1 the circumstances. Evidence may include, but is not limited to, the
2 following:

3 (1) ~~The mobilehome owner rents, leases, occupies, or has a~~
4 ~~present ownership interest in another place of residence. An~~
5 ~~ownership interest in a place of residence solely and exclusively~~
6 ~~occupied by the mobilehome owner's child or parent and his or~~
7 ~~her immediately family shall not serve as evidence that the~~
8 ~~mobilehome is not the sole residence of the mobilehome owner.~~

9 (2) ~~Another place of residence appears as a matter of public~~
10 ~~record or in other evidence obtained by management.~~

11 (3) ~~Monthly statements are mailed to, or payments are made~~
12 ~~from, a different place of residence.~~

13 (4) ~~The mobilehome owner is regularly absent from the~~
14 ~~mobilehome for extended periods of time, other than for military~~
15 ~~service, hospitalization, vacation, family or friend emergency care,~~
16 ~~or other reasonable temporary or seasonal periods of absence, such~~
17 ~~as travel necessitated by employment or education.~~

18 (5) ~~The mobilehome is used primarily for vacationing, storage,~~
19 ~~or business.~~

20 (6) ~~The mobilehome has been subleased or possession of the~~
21 ~~mobilehome has been transferred without management's approval,~~
22 ~~as provided in Sections 798.74 and 798.75.~~

23 (7) ~~A review of state or county records demonstrates that the~~
24 ~~homeowner is receiving a homeowner's exemption for another~~
25 ~~property or mobilehome.~~

26 (e) ~~The mobilehome owner shall have 30 days from the date~~
27 ~~the management's notice is mailed to review and dispute the~~
28 ~~management's findings in writing.~~

29 (f) ~~Any disputes pursuant to this section may be arbitrated at~~
30 ~~the tenant's sole determination if the tenant knowingly and~~
31 ~~voluntarily chooses to use arbitration by notifying the management~~
32 ~~in writing within 30 days after the dispute has arisen. If the tenant~~
33 ~~chooses arbitration, the following shall apply:~~

34 (1) ~~The owner or management of the mobilehome park shall~~
35 ~~pay the costs of the arbitration.~~

36 (2) ~~The parties shall meet and confer to select a mutually~~
37 ~~agreeable arbitrator. If the parties cannot agree to an arbitrator~~
38 ~~within 10 days after the homeowner's written response is received,~~
39 ~~the management shall obtain a list of five arbitrators from any bona~~
40 ~~fide dispute resolution provider serving the judicial district in~~

1 which the mobilehome park is located. Each party shall be able to
2 disqualify up to two arbitrators from the list. Any remaining
3 arbitrator may be selected.

4 (3) Within 30 days after selection, the arbitrator shall, at a time
5 and place reasonably convenient to the parties, hear the evidence
6 relevant to the dispute. No attorney may represent either party at
7 an arbitration hearing.

8 (4) Within 15 days of hearing the evidence, the arbitrator shall
9 render a written decision as to whether the mobilehome is the sole
10 residence of the mobilehome owner. The decision of the arbitrator
11 is final. If the management of the mobilehome park prevails in
12 arbitration, it may modify the rent, or any other tenancy terms, as
13 provided in the notice pursuant to subdivision (c). If the
14 homeowner prevails, management may not modify the rent or any
15 other tenancy terms, as provided in the notice.

16 (g) This section shall not apply under any of the following
17 circumstances:

18 (1) The mobilehome is the sole residence of the mobilehome
19 owner. For purposes of this subdivision, a mobilehome owner
20 includes a person who has a full-time tenancy in a mobilehome
21 park under a rental agreement, a senior who is a full-time resident
22 of a mobilehome owned by a child of the senior, or a child with a
23 disability or handicap who is a full-time resident of a mobilehome
24 owned by a parent or guardian of the child.

25 (2) The space is subleased by the owner for a medical hardship
26 pursuant to Section 798.23.5.

27 (3) Ownership of the mobilehome is transferred, upon the death
28 of the mobilehome owner, to an heir, joint tenant, or personal
29 representative pursuant to Section 798.78.

30 (4) Management elects to apply an exemption or right set forth
31 in the ordinance, rule, regulation, or initiative measure that
32 establishes a maximum amount that a landlord may charge a tenant
33 for rent.

34 (5) The mobilehome is being actively held available for sale by
35 the mobilehome owner, or pursuant to a listing agreement with a
36 real estate broker licensed pursuant to Chapter 3 (commencing
37 with Section 10130) of Part 1 of Division 4 of the Business and
38 Professions Code, or a mobilehome dealer, as defined in Section
39 18002.6 of the Health and Safety Code. A mobilehome owner,
40 real estate broker, or mobilehome dealer attempting to sell a

1 ~~mobilehome shall actively market and advertise the mobilehome~~
2 ~~for sale in good faith to bona fide purchasers for value in order to~~
3 ~~remain exempt pursuant to this paragraph. This paragraph shall~~
4 ~~apply as long as the mobilehome remains vacant and unoccupied,~~
5 ~~but if the mobilehome is occupied, this paragraph shall only apply~~
6 ~~after a reasonable time for sale of the mobilehome has been~~
7 ~~provided, not to exceed 120 days after the date of service of the~~
8 ~~notice described in subdivision (c).~~

9 ~~(h) If management authorizes the subleasing of mobilehomes~~
10 ~~in the park, management shall allow the mobilehome owner to~~
11 ~~sublease the mobilehome and shall not restrict the amount of rent~~
12 ~~that the mobilehome owner may charge. For the term of the~~
13 ~~sublease, the space shall be exempt from any ordinance, rule,~~
14 ~~regulation, or initiative measure adopted by a city, county, or city~~
15 ~~and county, that establishes a maximum amount of rent that a~~
16 ~~landlord may charge a tenant. Upon reoccupation of the space by~~
17 ~~the mobilehome owner after the term of the sublease has expired,~~
18 ~~the last rental rate charged to the mobilehome owner shall be the~~
19 ~~base rental rate for purposes of the ordinance, rule, regulation, or~~
20 ~~initiative measure, in addition to any increases that were allowed~~
21 ~~during the term of the sublease.~~

22 ~~(c) For purposes of this section, a mobilehome shall be deemed~~
23 ~~to be the principal residence of the homeowner, except as provided~~
24 ~~in subdivision (e).~~

25 ~~(d) Before modifying the rent or other term of tenancy as a result~~
26 ~~of a review of evidence that a mobilehome is not the principal~~
27 ~~residence of a homeowner, the management shall notify the legal~~
28 ~~owner, as defined in Section 18005.8 of the Health and Safety~~
29 ~~Code, each junior lienholder, as defined in Section 18005.3 of the~~
30 ~~Health and Safety Code, and the registered owner of the~~
31 ~~mobilehome, if other than the homeowner, by United States mail,~~
32 ~~of the proposed changes and provide a copy of the documents upon~~
33 ~~which the management relied.~~

34 ~~(e) Evidence that a mobilehome is a homeowner's principal~~
35 ~~residence shall not require that the homeowner be physically~~
36 ~~present in the mobilehome continuously or at all times. However,~~
37 ~~the evidence must show that the mobilehome is the homeowner's~~
38 ~~domicile and permanent residence. Evidence that the mobilehome~~
39 ~~is not the homeowner's principal residence shall include, but is~~

1 *not limited to, the following factors, which shall be weighed in*
2 *light of the totality of the circumstances:*

3 *(1) The homeowner does not carry on basic living activities at*
4 *the mobilehome for extended periods of time, as demonstrated by*
5 *a lack of utility usage.*

6 *(2) Another property or mobilehome is listed as the*
7 *homeowner's place of residence on any motor vehicle registration,*
8 *driver's license, voter registration, or with any other public agency,*
9 *including federal, state, and local taxing authorities.*

10 *(3) The bill for utilities for the mobilehome is mailed to a*
11 *different residential property.*

12 *(4) The homeowner's personal possessions are not located in*
13 *the mobilehome.*

14 *(5) A homeowner files a tax exemption or renter's credit for a*
15 *different property or the homeowner is the owner of record of a*
16 *different residential property. This paragraph shall not apply to*
17 *homeowners who established tenancy prior to January 1, 2013.*

18 *(6) The homeowner is a corporation or is otherwise not a*
19 *natural person.*

20 *(7) The homeowner is absent from the unit for extended periods*
21 *of time, other than for military service, hospitalization, vacation,*
22 *family or friend emergency or care, Peace Corps service, academic*
23 *sabbatical, or other reasonable temporary or seasonal periods of*
24 *absence, such as travel necessitated by employment or education.*

25 *(8) The mobilehome is used primarily for storage, entertaining,*
26 *or as an office.*

27 *(9) The mobilehome has been subleased, except as provided by*
28 *Section 798.23.5 for medical emergencies or medical treatment.*

29 *(10) Possession of the mobilehome has been transferred without*
30 *the approval of the management pursuant to Sections 798.74 and*
31 *798.75.*

32 *(11) The principal residence of the homeowner is located outside*
33 *the state.*

34 *(f) The homeowner shall have 90 days from the date the notice*
35 *described in subdivision (d) is mailed to review and respond to*
36 *the notice. Management may not modify the rent or other terms of*
37 *tenancy prior to the expiration of the 90-day period or prior to*
38 *responding, in writing, to information provided by the homeowner.*
39 *Management may not modify the rent or other terms of tenancy if*
40 *the homeowner provides documentation during the 90-day period*

1 *that reasonably establishes that the information provided by*
2 *management was incorrect or that the homeowner is not the same*
3 *person identified in the documents. This subdivision shall apply*
4 *regardless of a change in the homeowner's exemption status, if*
5 *applicable, or to the listing of the mobilehome for sale after service*
6 *of the notice described in subdivision (d).*

7 *(g) This section does not apply under any of the following*
8 *conditions:*

9 *(1) The mobilehome is the homeowner's principal residence.*

10 *(2) The space is subleased pursuant to Section 798.23.5.*

11 *(3) The mobilehome is occupied by a full-time resident who is*
12 *55 years of age or older and the mobilehome is owned by a child*
13 *of that resident.*

14 *(4) The mobilehome is occupied by a full-time resident who has*
15 *a disability or handicap and the mobilehome is owned by a parent*
16 *or guardian of that resident.*

17 *(5) Ownership of the mobilehome is transferred, upon the death*
18 *of the registered owner, to an heir, joint tenant, or personal*
19 *representative who, pursuant to Section 798.7, is approved for*
20 *tenancy and uses the mobilehome as his or her principal residence.*

21 *(6) Management elects to apply an exemption or right set forth*
22 *in an ordinance, rule, regulation, or initiative measure that*
23 *establishes a maximum amount that a landlord may charge a tenant*
24 *for rent.*

25 *(7) The mobilehome is being actively held available for sale by*
26 *the homeowner, or pursuant to a listing agreement with a real*
27 *estate broker licensed pursuant to Chapter 3 (commencing with*
28 *Section 10130) of Part 1 of Division 4 of the Business and*
29 *Professions Code, or a mobilehome dealer, as defined in Section*
30 *18002.6 of the Health and Safety Code, and management has been*
31 *given notice thereof, after service of the notice described in*
32 *subdivision (d). A homeowner, real estate broker, or mobilehome*
33 *dealer attempting to sell a mobilehome shall actively market and*
34 *advertise the mobilehome for sale in good faith to bona fide*
35 *purchasers for value in order to remain exempt pursuant to this*
36 *subdivision. This paragraph shall apply as long as the mobilehome*
37 *remains vacant and unoccupied, but if the mobilehome is occupied,*
38 *this paragraph shall only apply after a reasonable time for sale*
39 *of the mobilehome has been provided, not to exceed 120 days after*
40 *the date of service of the notice described in subdivision (d).*

1 (8) *The legal owner has taken possession or ownership, or both,*
2 *of the mobilehome from a registered owner through either a*
3 *surrender of ownership interest by the registered owner or a*
4 *foreclosure proceeding.*

5 SEC. 2. Section 798.74.5 of the Civil Code is amended to read:

6 798.74.5. (a) Within two business days of receiving a request
7 from a prospective homeowner for an application for residency
8 for a specific space within a mobilehome park, if the management
9 has been advised that the mobilehome occupying that space is for
10 sale, the management shall give the prospective homeowner a
11 separate document in at least 12-point type entitled
12 “INFORMATION FOR PROSPECTIVE HOMEOWNERS,”
13 which includes the following statements:

14
15 “As a prospective homeowner you are being provided with certain
16 information you should know prior to applying for tenancy in a
17 mobilehome park. This is not meant to be a complete list of
18 information.

19
20 Owning a home in a mobilehome park incorporates the dual role
21 of “homeowner” (the owner of the home) and park resident or
22 tenant (also called a “homeowner” in the Mobilehome Residency
23 Law). As a homeowner under the Mobilehome Residency Law,
24 you will be responsible for paying the amount necessary to rent
25 the space for your home, in addition to other fees and charges
26 described below. You must also follow certain rules and regulations
27 to reside in the park.

28
29 If you are approved for tenancy, and your tenancy commences
30 within the next 30 days, your beginning monthly rent will be \$____
31 (must be completed by the management) for space number ____
32 (must be completed by the management). Additional information
33 regarding future rent or fee increases may also be provided.

34
35 In addition to the monthly rent, you will be obligated to pay to the
36 park the following additional fees and charges listed below. Other
37 fees or charges may apply depending upon your specific requests.
38 Metered utility charges are based on use.

39
40 _____

1 _____
2 (Management shall describe the fee or charge and a good faith
3 estimate of each fee or charge.)
4

5 Some spaces are governed by an ordinance, rule, regulation, or
6 initiative measure that limits or restricts rents in mobilehome parks.
7 These laws are commonly known as “rent control.” Prospective
8 purchasers who do not occupy the mobilehome as their ~~sole~~
9 *principal* residence may be subject to rent levels which are not
10 governed by these laws. Long-term leases specify rent increases
11 during the term of the lease. By signing a rental agreement or lease
12 for a term of more than one year, you may be removing your rental
13 space from a local rent control ordinance during the term, or any
14 extension, of the lease if a local rent control ordinance is in effect
15 for the area in which the space is located.

16
17 A fully executed lease or rental agreement, or a statement signed
18 by the park’s management and by you stating that you and the
19 management have agreed to the terms and conditions of a rental
20 agreement, is required to complete the sale or escrow process of
21 the home. You have no rights to tenancy without a properly
22 executed lease or agreement or that statement. (Civil Code Section
23 798.75)
24

25 If the management collects a fee or charge from you in order to
26 obtain a financial report or credit rating, the full amount of the fee
27 or charge will be either credited toward your first month’s rent or,
28 if you are rejected for any reason, refunded to you. However, if
29 you are approved by management, but, for whatever reason, you
30 elect not to purchase the mobilehome, the management may retain
31 the fee to defray its administrative costs. (Civil Code Section
32 798.74)
33

34 We encourage you to request from management a copy of the lease
35 or rental agreement, the park’s rules and regulations, and a copy
36 of the Mobilehome Residency Law. Upon request, park
37 management will provide you a copy of each document. We urge
38 you to read these documents before making the decision that you
39 want to become a mobilehome park resident.

- 1 Dated: _____
- 2 Signature of Park Manager: _____
- 3 Acknowledge Receipt by Prospective Homeowner: _____”
- 4
- 5 (b) Management shall provide a prospective homeowner, upon
- 6 his or her request, with a copy of the rules and regulations of the
- 7 park and with a copy of this chapter.

O